

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:11-CR-155-BO

UNITED STATES OF AMERICA)
)
v.)
)
ROGER VAN SANTVOORD CAMP)

ORDER

This cause comes before the Court on defendant's *pro se* motion for reduction of sentence pursuant to findings under 18 U.S.C. § 3582(c) and in light of the 2011 Amendment to the United States Sentence Guidelines for economic crimes in 2B1.1. [DE 231 & 232].¹ The government has responded, and the matter is ripe for review.

BACKGROUND

Defendant is currently serving an aggregate sentence of 102 months' imprisonment following his plea of guilty to bank fraud and aggravated identity theft charges. *See* [DE 122]. Defendant filed this motion seeking a reduction in his sentence under 18 U.S.C. § 3582(c)(2) pursuant to Amendment 791 to the United States Sentencing Guidelines.

DISCUSSION

A court "may not modify a term of imprisonment once it has been imposed except" under limited circumstances. 18 U.S.C. § 3582(c). One of those circumstances is where the defendant "has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. § 994(o)" 18 U.S.C. § 3582(c)(2); *see also* U.S.S.G. § 1B1.10(a). In those instances where an amendment to the Guidelines lowers the Guidelines range for a particular offense, the Sentencing Commission must

¹ Docket entries 231 and 232 appear to contain the same motion filed on different dates.

“indicate whether and in what circumstances such amendment will have retroactive effect . . .”

United States v. Williams, 808 F.3d 253, 257 (4th Cir. 2015). Only those amendments which have been given retroactive effect will provide a basis for a court to grant a sentence reduction under § 3582(c)(2). *Id.*

Section 1B1.10 of the Sentencing Guidelines provides that


[i]n a case in which a defendant is serving a term of imprisonment, and the guideline range applicable to that defendant has subsequently been lowered as a result of an amendment to the Guidelines Manual listed in subsection (d) below, the court may reduce the defendant's term of imprisonment as provided by 18 U.S.C. § 3582(c)(2).

U.S.S.G. § 1B1.10(a)(1). The covered amendments listed in § 1B1.10(d) – those amendments made retroactively applicable to defendants who have already been sentenced – does not include Amendment 791. U.S.S.G. § 1B1.10(d). Accordingly, the Court is without authority to reduce defendant's sentence based on Amendment 791 and his motion must be denied.

CONCLUSION

For the foregoing reasons, defendant's motion for reduction in sentence under 18 U.S.C. § 3582(c)(2) [DE 231 & 232] is DENIED.

SO ORDERED, this 4 day of October, 2018.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE